



George E. Pataki  
Governor



STATE OF NEW YORK  
OFFICE FOR TECHNOLOGY  
STATE CAPITOL, ESP  
PO BOX 2062  
ALBANY, NY 12220-0062

EX PARTE OR LATE FILED

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James T. Dillon  
Chief Information  
Officer

Michael McCormack  
Director

**MEMORANDUM**

**REPLY TO OPPOSITION - FILED ELECTRONICALLY**

October 5, 2005

Ms. Marlene Dortch, Esq.  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**ORIGINAL**

Re: EX PARTE: Support for Petition for Reconsideration, WTB Docket 02-55

Dear Ms. Dortch,

On behalf of the New York State Statewide Interoperability Executive Committee (NYS SIEC), I hereby submit the following comments in support of the FCC Region 8 / Tri-State Regional Planning Committee Petition for Reconsideration filed 01/21/05, its Response to Opposition to Petition for Reconsideration filed 04/28/05, and the National Association of Regional Planning Committees Support filing on 09/14/05. These filings request that the FCC revert back to full interference protection of the NPSPAC channel during the 800 MHz rebanding process.

The NYS SIEC is very concerned about the lack of planning and coordination available through the transition process for the 800-MHz rebanding and its potential impact on the spectrum allocated for interoperability. This matter has now reached the highest urgency as the timeline for Wave 1 rebanding of NPSPAC spectrum is now only several months away.

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The NYS SIEC particularly agrees with the following three points as to why the interference protection should be afforded in full (excerpted from the Region 8 Reply to Opposition – 04/28/05):

- (1) The NPSPAC band does indeed have unique characteristics, as it is the only non-interleaved public safety band at 800 MHz, making it much less susceptible to receiver generated third and fifth order intermodulation products resulting from ESMR and cellular interference<sup>1</sup>. Because of this, all intermodulation issues related to spectrum interleaving are eliminated. Even today, the major cause of interference to NPSPAC utilization is due to high levels of in-band noise resulting from cellular and ESMR OOB caused by the use of spectrally impure combiner/transmitter systems and by receiver overload due to very large out-of-NPSPAC band signals (i.e. cellular and ESMR) at close proximity to public safety receivers.*
- (2) The NPSPAC band is the only location where internationally defined 800 MHz Mutual Aid Interoperability channels are located. In Region 8, these channels provide the core spectrum for a comprehensive mutual aid and interoperability first responder system spanning three states. Interference on these channels (which are 0.5 MHz spaced throughout the NPSPAC band) is completely unacceptable. These internationally defined interoperability channels are the most effective and seamless place to go during a large-scale incident in order to interoperate with first responders coming into a local area from outside areas, or for multiple agencies to assist in a localized or Regional incident. It is unacceptable that the in-band protection of these channels be compromised for any reason, much less to protect some ethereal and undefined, loss of "level of service" for out-of-band interference sources. Furthermore, the heavy tactical utilization of these channels requires that the only practical solution to providing effective area-wide monitoring and protection of these channels from out-of-band interference sources is to provide protection to the entire NPSPAC band. It is simply not an acceptable policy to wait until interference occurs on these channels (or any NPSPAC channels for that matter), and then rely upon a second tier or "best practices solution". Not only will relief come too late in these instances, but the loss of life and property might also result. We are all too familiar with situations where critical communication links are interfered with and a time-sensitive response is lost<sup>2</sup>. Unfortunately, the consequences of the lack of communications during a first response effort, is now common knowledge.*
- (3) Furthermore, public safety entities do not have the fiscal ability to build out their entire systems in order to be afforded satisfactory interference protection that is tied to a well-defined quick resolution process. Requiring public safety entities to simply increase their signal levels 16 dB in order to get interference protection is*

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<sup>1</sup> Almost by definition, most high-level IM3 and IM5 products (the main offenders) produced by combinations of cellular/CMRS interference, cellular/cellular interference, and CMRS/CMRS interference will occur mainly outside of the NPSPAC band.

<sup>2</sup> Worse still is the emergency call that does not get through because of "acceptable levels of interference". The officer who needs immediate assistance does not always get the automatic retries; his first call for help may be the only call he can make. He or she does not get to call back later, or redial his call, or get an interference "message".

*nonsensical, and equivalent to wanton spectrum pollution. This approach also requires taxpayers to bear the cost burden associated with this process, the cost of which could be massive. Clearly, there must be a more "balanced" solution than the one proposed by Nextel and tentatively accepted by the Commission.*

In closing, our review of the record indeed concludes that Region 8 is the only body that has researched in detail and presented tangible evidence of the impacts and amount of operational area that public safety will lose if the interim interference protection levels are adjusted upward from -101/-104 dBm to -85/-88 dBm. While it is true that some public safety organizations have supported this change, it is also clear that only Region 8 has provided any quantitative assessment (analyses) and evidence (measurements) as to the true impact of this change. Therefore we concur with Region 8 and NARPC, and request that the Commission revert back to the -101/-104 dBm protection levels for the NPSPAC portions of the 800 MHz band.

Sincerely,

A handwritten signature in cursive script, reading "David H. Cook".

Mr. David Cook, Chair  
New York State Statewide Interoperability Executive Committee